IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR
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ORDER

Karan Singh
vs
The State of Rajasthan & Anr.

S.B. CIVIL WRIT PETIITON NO.609/1994 UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA.

DATE OF ORDER : 18th Sept., 2006

PRESENT

HON'BLE MR.MOHAMMAD RAFIQ,J.

Mr.Sanjay Mathur,Advocate, for the petitioner.
Mr.Rameshwar Dave, Dy. Government Advocate, for the respondents.

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BY THE COURT: -

The petitioner has filed this writ petition with the prayer that the respondents be directed to promote the petitioner on the post of Asstt. Forester from the date persons junior to him were promoted on the said post with all consequential benefits.

According to the petitioner, he was appointed as Forest

Guard on probation for six months vide order dated 20.3.1971. Services of the petitioner were subsequently confirmed on the post of Forest Guard. In the year 1974, the petitioner was promoted as Asstt. Forester on purely ad hoc basis. However, on abolition of three posts of Asstt. Forester, the petitioner was reverted back to his original post, i.e., Forest Guard in the year 1974 itself. The Divisional Forest Officer, Banswara, thereafter, circulated a seniority list of the substantive Forest Guards working in the department on 1.1.1981 and the name of the petitioner was mentioned in the said seniority list at S.No.59. A charge-sheet was thereafter issued to him under Rule 16 of the Rajasthan Civil Services (Classification, Control and Appeal) Rules, 1958 (in short the C.C.A. Rules) and disciplinary proceedings were initiated against the petitioner. During the pendency of the disciplinary proceedings, the respondent-department decided to promote certain Forest Guards on the post of Asstt. Forester in the year 1984. Though the candidature of the petitioner was considered by the respondents, but promotion was not accorded to him because of the pendency of the disciplinary proceedings against him. Although the disciplinary proceedings were not concluded in the year 1989, the petitioner was promoted on the post of Asstt. Forester on the recommendation of Departmental Promotion Committee. However, the disciplinary proceedings were later completed in

the year 1982 and vide order dated 30th June, 1992, it was communicated to the petitioner that a punishment of stoppage of one grade annual increment had been imposed upon him and he was further required to deposit a sum of Rs.695/- against the loss caused to the State Government. The respondent no.2 vide order dated 25th August, 193, confirmed the petitioner on the post of Asstt. Forester w.e.f. 1st March, 1991. It has been stated by the petitioner that the persons who were junior to him in the cadre of Forest Guard, whose names appear from S.No.5 to 22, were confirmed on the post of Asstt. Forest with effect from 1st August, 1986 and some of the persons with effect from 1st March, 1989. Submission of the petitioner is that the respondents have not decided the issue of promotion on the post of Asstt. Forester till now though the disciplinary proceedings have been concluded and the candidature of the petitioner was considered by the respondents way back in the year 1984 and recommendations of DPC were kept in sealed cover. Since the disciplinary proceedings have already been concluded, the respondents are now required to decide the issue with regard to the promotion of the petitioner from the post of Forest Guard to Asstt. Forester.

The respondents have contested the writ petition and contended that disciplinary proceeding against the petitioner

was initiated and charge-sheet dated 14.3.1983 was issued to him. In order to consider his case for promotion the record of previous seven years was required to be seen and finally after conclusion of inquiry, penalty was imposed upon him was also to be considered. However, as per the recommendations of the DPC by order dated 25.2.1988 his case for promotion was considered and he was promoted by order dated 31.3.1989.

I have heard learned counsel for the parties and perused the record.

The penalty of one grade increment was imposed upon the petitioner way back on 30th June, 1992. It appears that the promotion of the petitioner was denied on account disciplinary proceedings against him which ultimately culminated in imposition of penalty of one grade increment upon him with cumulative effect. The respondents have placed on record order of penalty dated 6th June, 1992 (Annex.R/1) which appears to be result of a joint inquiry against several officers. So far as petitioner is concerned, he was found guilty of causing loss to the Government by illegally cutting of trees of Sagwan. Similar charges were there against the other employees for cutting the Sagwan trees. The disciplinary authority imposed the penalty of stoppage of one grade increment with cumulative effect upon the

petitioner. The respondents have also stated that apart from the order of penalty, over all performance of the petitioner was found average and hence, it was also a reason for delay in his promotion. It has also been stated by the respondents that petitioner has not impleaded any persons junior to him, who have given promotion. In view of all these reasons, I do not find any ground to now direct the respondents to consider the case of the petitioner for promotion from an early date.

In the result, the writ petition fails and is hereby dismissed. There shall be no order as to costs.

(MOHAMMAD RAFIQ), J.

c.p.goyal/-